

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CASE NO. 3:16-cv-00695-GCM**

BARONIUS PRESS, LTD.,	)	
	)	<b>BARONIUS PRESS, LTD.</b>
Plaintiff,	)	
	)	<b>SECOND SET OF WRITTEN</b>
v.	)	<b>DISCOVERY REQUESTS TO</b>
	)	
SAINT BENEDICT PRESS LLC,	)	<b>SAINT BENEDICT PRESS LLC</b>
	)	
Defendant.	)	

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Plaintiff Baronius Press, Ltd. (“BP”), by and through its undersigned counsel, pursuant Rules 26, 34 and 36 of the Federal Rules of Civil Procedures, requests that Defendant Saint Benedict Press LLC (“TAN”) answers and responds to each of the following interrogatories, requests for production, and requests for admission.

**DEFINITIONS**

A. As used herein, the word “person(s)” includes a natural person, firm, proprietorship, association, partnership, corporation, and any other type of organization or entity, or any agent, employee, attorney or similar thereof.

B. “You” and “your” refers to Defendant Saint Benedict Press LLC, TAN Books or any of “your” other representatives, employees, or agents or associated companies.

C. “TAN” or “TAN Books” refers to Defendant Saint Benedict Press LLC or any of its other representatives, employees, or agents.

D. “BP” refers to Plaintiff Baronius Press, Ltd. or any of its representatives, employees, or agents.

E. “Complaint” refers to the BP vs. TAN First Amended Complaint filed December 21, 2016 (Case No. 3:16-cv-00695-GCM, Doc. No. 16).

F. “*Fundamentals* Copyright - German” refers to BP’s United States copyright registration for the original German work entitled *Grundriß der katholischen Dogmatik* (aka *Fundamentals of Catholic Dogma*) received from the United States Copyright Office, Copyright Certificate TX-6-484-646, issued on February 21, 2014, and is attached and incorporated to the Complaint as **Exhibit 1**.

G. “*Fundamentals* Copyright - English” refers to BP’s United States copyright registration for the English language translation of the original German work entitled *Grundriß der katholischen Dogmatik* (aka *Fundamentals of Catholic Dogma*) received from the United States Copyright Office, Copyright Certificate TX-6-484-647, issued on February 21, 2014, and is attached and incorporated to the Complaint as **Exhibit 2**.

H. “*Fundamentals*” refers to *Fundamentals of Catholic Dogma*, which is the English translation of the German original work *Grundriß der katholischen Dogmatik*, and is the subject matter of the Complaint.

I. “Notice of Intent to Enforce” refers to BP’s April 26, 2013, Notice of Intent to Enforce *Fundamentals of Catholic Dogma* that it served to TAN, and is attached and incorporated to the Complaint as **Exhibit 3**.

J. “BP’s Demand Letters to TAN” refers to BP’s correspondences that it sent to TAN providing notice to TAN that it did not have any rights to publish *Fundamentals of*

*Catholic Dogma* in the United States, and are attached and incorporated to the Complaint as **Exhibit 4.**

K. “Sample of TAN’s Advertisements of *Fundamentals*” refers to the copies of TAN’s advertisements of Fundamentals that is attached and incorporated to the Complaint as **Exhibit 5.**

L. “Identify” or “state the identity of,” when used with respect to a person, means state the person’s full name, and address.

M. “Identify” or “state the identity of,” when used with respect to a document, means state its date; the identity of each author and each addressee; the type of document (e.g., “letter”); its present or last known location and the identity of each person responsible for its custody, possession, and control; and, if the document was, but no longer is, in your custody, possession, or control, what disposition was made of it and when.

N. “Identify,” “state,” “describe,” or “explain,” when used with respect to a fact, event or allegation, means provide the complete and full details concerning such fact, event or allegation, including the identity of all documents that reflect, refer, relate, evidence, or pertain in any way to such fact, event or allegation.

O. As used herein, the word “document(s)” shall include all materials and tangible objects conveying or carrying spoken, visual or literal substance, and shall refer to, but is not limited to, the original and any non-identical copy, regardless of origin or location, of the following: correspondence, electronic mail (email), voice mail, text messaging, instant messaging, social media posts/submissions, records, tables, charts, plats, analyses, graphs,

schedules, reports, memoranda, journals, notes, logs, diaries, calendars, appointment books, letters, telegrams, messages (including, but not limited to, reports of telephone conversations and conferences), studies, directives, books, periodicals, magazines, newspapers, booklets, circulars, advertisements, brochures, bulletins, instructions, minutes, other communications (including, but not limited to inter- and intra-office communications), contracts, books of account, orders, invoices, ledgers, statements, checks, bills, files, vouchers, notebooks, scrapbooks, data sheets, data processing cards, computer print-outs, computer programs, computer program documentation, cloud documentation, internet browser history logs and the like, internet browser cookie logs and the like, computer IP Address, computer MAC address photographs, photographic negatives, phono-records, videos, tape recordings (both audio and video), wire recordings, drawings, forms, catalogues, manuals, blueprints, tracings, tabulations and any other matter of any kind, regardless of the manner in which produced, whether handwritten, typed, printed, or produced by any other process. The term “document(s)” specifically includes any records stored on computer hard-drive, thumb drive, external hard drive, computer disk or computer tape or otherwise stored by or in a computer, whether or not a hard copy (i.e., a paper copy) of the document is now, or was at any time, in existence. The documents requested shall include all marked copies. A “marked copy” is any document containing any writing or any markings of any kind in the text, in the margins or on the reverse side of the document.

P. “Communication” or “Communicate” means and refers to conversations (whether face-to-face, telephone or otherwise), correspondence, memoranda, discussions, letters, orders, requests, electronic mail, text messages, internet publications and all other means of exchanging or imparting information, all of which is a “document.”

Q. “Relate to,” “related to,” or “relating to” means, as used herein, “constituting,” “referring to,” “pertaining to,” “evidencing,” “reflecting,” “describing” or “has anything to do with” and in each instance, directly or indirectly. These terms mean, without limitation, any reference of relationship that either (i) provides information with respect to the subject of inquiry, or (ii) might lead to individuals who, or documents which, might possess or contain information relating to this lawsuit.

R. As used herein:

- a. The words “and” and “or” shall not be interpreted disjunctively to exclude any information otherwise within the scope of any interrogatory below, or any document otherwise within the scope of the quest for production of documents below;
- b. The word “any” shall be interpreted to mean “any and all,” unless the context in which the word appears unambiguously indicates otherwise; and
- c. The plural form of a word shall be interpreted to exclude the singular, nor a singular form to exclude the plural, where appropriate.

#### **GENERAL INSTRUCTIONS**

A. Knowledge. Where your knowledge or information is requested, such request shall also include the knowledge of your representatives and agents, and, unless privileged, your attorney(s).

B. Deletion/Redaction. Where anything whatsoever has been deleted from a document produced in response to a discovery request: a) specify the nature of the material deleted; b) specify the reason for the deletion; and c) identify the person responsible for the deletion.

C. Objections. If you object to any Interrogatory or Request set forth herein, please state the grounds of the objection with sufficient specificity to permit determination of the basis of such objection. In this regard:

a. Scope – Requests for Production of Documents. Each Request for Production of Documents contained herein extends to any items in your possession, custody or control. Such items shall include, without limitations, items that are in the possession, custody, or control of your attorney(s) or other agents.

b. Claims of Privilege – Interrogatories. If an Interrogatory asks for “identification” or “description” of a document, written communication or oral communication, and you contend the document, written communication or oral communication is privileged, you are requested to so state in the answer, to state the ground for the claim or privilege, and to respond to the Interrogatory to the fullest extent possible without revealing the claimed privileged information.

c. Claims of Burdensomeness – Interrogatories. If you do not answer an Interrogatory on the ground that it is burdensome, you are requested to state the reason for so claiming, including, as a minimum, the number and nature of documents and/or things which you must search, the location of the documents and/or things, and the estimated man-hour and other costs necessary for such a search. If you can supply a limited answer to the Interrogatory

that avoids the claim of burdensomeness, you are requested to answer the Interrogatory to the fullest extent possible, and explain fully in your response why a more complete response would be burdensome.

d. Claims of Privilege – Requests for Production of Documents. In the event a document or portion thereof is withheld for any reason, you shall indicate the following information for each such document, or portion thereof, within thirty (30) days of service of Requests for Production of Documents:

- i. The date of the document;
- ii. The general character or type of document (e.g., letter, memo, email, notes, etc.)
- iii. The identity of the person in possession of the document;
- iv. The identity of the author of the document;
- v. The identity of the recipients or holder of the document; and
- vi. The reason, including but not limited to, any legal obligation or privilege for withholding the document, or portion thereof.

D. Supplementation. The Interrogatories and Requests contained herein are continuing in character so as to require you to file supplemental responses if you obtain further or different information before any hearing or trial on the merits and this General Instruction is a request for such supplementation.

## **REQUESTS FOR THE PRODUCTION OF DOCUMENTS AND THINGS**

1. Produce all documents identified, or reviewed by you in preparing your responses to Plaintiff's Second Set of Written Discovery Requests to TAN.

### **RESPONSE:**

2. Produce a copy of the/*all* Insurance Policy/*ies* for Defendant Saint Benedict Press LLC

### **RESPONSE:**

3. Produce statements/invoices of sales of *Fundamentals* to foreign countries outside of the US for each version of *Fundamentals* TAN sold i.e., hardback, paperback, epub/ebook etc. in the "Net Units/Copies Sold per calendar month" format per each country, from date Defendant purchased "TAN Books and Publishers" to present and produce the copies of the Invoices/Sales Receipts for those sales.

### **RESPONSE:**

4. Defendant's edition of *Fundamentals* contains six (6) pages of advertising of Defendant's various products, brands and imprints that caused or contributed to the profits Defendant made from the sale of its infringing work. To ascertain such damages attributable to Defendant's infringement, produce statements of sales/invoices of Course No. C20201 (*Christian*



*Spirituality: A Historical Study of Prayer, Detachment, and Love of God*) in the “Net Units/Copies Sold per calendar month” format, from March 2014 to present.

**RESPONSE:**

5. Defendant’s edition of *Fundamentals* contains six (6) pages of advertising of Defendant’s various products, brands and imprints that caused or contributed to the profits Defendant made from the sale of the infringing work. To ascertain such damages attributable to the infringement, produce statements of sales/invoices of Course No. C30301 (*The New Testament Canon: The Development of the Gospels from Oral Tradition to Sacred Scripture*) in the “Net Units/Copies Sold per calendar month” format, from March 2014 to present.

**RESPONSE:**

6. Defendant’s edition of *Fundamentals* contains six (6) pages of advertising of Defendant’s various products, brands and imprints that caused or contributed to the profits Defendant made from the sale of the infringing work. To ascertain such damages attributable to the infringement, produce statements of combined sales/invoices of Catholic Courses in the “Net Units/Copies Sold per calendar month” format, from March 2014 to present.

**RESPONSE:**

7. Defendant’s edition of *Fundamentals* contains six (6) pages of advertising of Defendant’s various products, brands and imprints that caused or contributed to the profits Defendant made from the sale of the infringing work. To ascertain such damages attributable to

the infringement, produce statements of sales/invoices in the “Net Units/Copies Sold per calendar month” format (as Defendant has done previously) from March 2014 to present for the following titles:

- (a) ISBN: 9780895552273 The Interior Castle: or the Mansions
- (b) ISBN: 9780895551542 True Devotion to Mary with Preparation for Total Consecration
- (c) ISBN: 9780895551559 The Story of a Soul: The Autobiography of the Little Flower
- (d) ISBN: 9780895551498 The Dialogue of St. Catherine of Siena
- (e) ISBN: 9780895552303 Dark Night of the Soul
- (f) ISBN: 9780895552280 An Introduction to the Devout Life
- (g) ISBN: 9780895551511 The Life of St. Francis of Assisi
- (h) ISBN: 9780895552266 Abandonment to Divine Providence
- (i) ISBN: 9780895552259 The Imitation of Christ
- (j) ISBN: 9780895551528 The Spiritual Combat and a Treatise on Peace of Soul
- (k) ISBN: 9780895551535 The Spiritual Exercises of Saint Ignatius
- (l) ISBN: 9780895551993 The Foundations of Western Monasticism

**RESPONSE:**

8. Defendant’s edition of *Fundamentals* contains six (6) pages of advertising of Defendant’s various products, brands and imprints that caused or contributed to the profits Defendant made from the sale of the infringing work. To ascertain such damages attributable to the infringement, produce statements of the combined gross revenue of sales of TAN, Neumann Press, ACS Books and the Confraternity of the Precious Blood, Saint Benedict Press, Catholic Courses and Catholic Scripture Study International from March 2014 to present.

**RESPONSE:**

9. Produce all documents showing any customers/ inquirer who had asked about pre-ordering, or had pre-ordered, the advertised new re-typeset edition of *Fundamentals* with preface by Patrick Madrid were informed that such edition would not be supplied to them and instead a hardback edition with the text from the previous edition (facsimile of 1974 edition with 2005 corrections) would be provided. If no such documents exist, state so.

**RESPONSE:**

10. Produce the engagement letter for Ryan W. Monk/Monk Law Firm PLLC., showing the date(s) of engagement and the subject of the engagement. Also produce the invoice(s) issued by Ryan W. Monk/Monk Law Firm PLLC., with regards to this engagement and a proof of payment of the invoice(s). Produce all factual and pre-existing documents that were provided to Ryan W. Monk/Monk Law Firm PLLC. in connection with his engagement. If any of the above documents do not exist, state so. Otherwise, please redact any privileged content in these requested documents prior to production, produce redacted responsive documents, update your Privilege Log accordingly and produce an updated Privilege Log.

**RESPONSE:**

11. Produce the engagement letter for John Nipp, Esq. showing the date(s) of engagement and the subject of the engagement. Also produce the invoice(s) issued by John Nipp, Esq., with regards to this engagement and a proof of payment of the invoice(s). Produce all factual and pre-existing documents that were provided to John Nipp, Esq. in connection with his

engagement. Otherwise, if any of the above documents do not exist, state so. Otherwise, please redact any privileged content in these requested documents prior to production, produce redacted responsive documents, update your Privilege Log accordingly and produce an updated Privilege Log.

**RESPONSE:**

12. Produce the engagement letter for Marshall Leaffer, Esq. showing the date(s) of engagement and the subject of the engagement. Also produce the invoice(s) issued by Marshall Leaffer, Esq., with regards to this engagement and a proof of payment of the invoice(s). Produce all factual and pre-existing documents that were provided to Marshall Leaffer, Esq. in connection with his engagement. If any of the above documents do not exist, state so. Otherwise, please redact any privileged content in these requested documents prior to production, produce redacted responsive documents, update your Privilege Log accordingly and produce an updated Privilege Log.

**RESPONSE:**

## INTERROGATORIES

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, please answer Plaintiff's Second Set of Interrogatories as requested below.

1. For each document that you produce in response to Plaintiff's Second Set of Discovery Request to TAN, please complete the table provided in **Appendix 1** that identifies the specific request or requests to which each document pertains. Below are sample inserts into the table.

<b>Second Request</b>	<b>RESPONSIVE TO Production/Interrogatory Req. No.</b>	<b>Bates Nos.</b>	<b>Privilege Claimed (Yes/No)</b>
Second Request	Production Req. No. 1	SBPP-00	No
Second Request	Interrogatory Req. No. 22	SBPP-00	Yes Work Product

When completing **Appendix 1**, please add/remove, create/delete or correct any information in the table provided in **Appendix 1**.

### ANSWER:

2. State the sales channels through which *Fundamentals* (PB 0155) were sold after April 26, 2013, *i.e.* on TAN's website, to wholesale customer, directly to schools, or sold via any means to any third party.

### ANSWER:

3. Identify the way in which the marketing sheet identified in Bates No. SBPP-00283: (i) was distributed to any third party, such as by fax, email, leaflet campaign etc.; (ii) was distributed to how many third party recipients, including but not limited to, identifying all third

party recipients, (iii) what type of third-party recipients were they distributed to, *e.g.*, wholesale customer, individual (non-wholesale) customers etc.; and (iv) the dates of each identified mailings/communication/campaigns occurred.

**ANSWER:**

4. State the corporate position of Robert Gallagher, James Hetzel, Connor Gallagher, Rick Rotondi, Richard Hoefling, John Briody and the Members of Saint Benedict Press LLC for the period 2008-2018. When responding to this Interrogatory, please use Appendix 2 that is attached and incorporated hereto. When completing Appendix 2, please add/remove, create/delete or correct any information in the table provided in Appendix 2.

**RESPONSE:**

Respectfully submitted this the 8<sup>th</sup> day of August, 2018.

/s/ Mark W. Ishman

Mark W. Ishman

N.C. State Bar No. 27908

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing **SECOND SET OF WRITTEN DISCOVERY REQUESTS TO SAINT BENEDICT PRESS** was served on the parties hereto by U.S. mail to the following recipients:

Jonathan E. Buchan  
Natalie D. Potter  
Essex Richards, PA  
1701 South Blvd.  
Charlotte, NC 28203

Telephone: (704) 377-4300  
Fax: (704) 372-1357  
Email: [jbuchan@essexrichards.com](mailto:jbuchan@essexrichards.com)  
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This the 8<sup>th</sup> day of August, 2018.

/s/ Mark W. Ishman

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